

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-0629V

UNPUBLISHED

MICHELE WENCLAWIAK,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 2, 2021

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Influenza (Flu) Vaccine;  
Shoulder Injury Related to Vaccine  
Administration (SIRVA)

*Emily Beth Ashe, Anapol Weiss, Philadelphia, PA, for Petitioner.*

*Adriana Ruth Teitel, U.S. Department of Justice, Washington, DC, for Respondent.*

## RULING ON ENTITLEMENT<sup>1</sup>

On May 21, 2020, Michele Wenclawiak filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered from “severe left shoulder pain, tingling, numbness, weakness and decreased range of motion, which was caused in fact” by an influenza (“flu”) vaccine she received on October 1, 2018. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

<sup>1</sup> Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On November 1, 2021, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation for a Table SIRVA.<sup>3</sup> Respondent's Rule 4(c) Report at 1. Specifically, Respondent states that Petitioner had no pre-vaccination history of pain, inflammation, or dysfunction of her left shoulder; Petitioner's pain occurred within 48 hours after receipt of an intramuscular vaccination; Petitioner's pain and reduced range of motion were limited to the shoulder in which the vaccine was administered; and no other condition or abnormality has been identified to explain Petitioner's shoulder pain. *Id.* at 9. Respondent further agrees that Petitioner suffered the residual effects of her condition for more than six months. *Id.*

**In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Because Respondent has determined that Petitioner meets the criteria for establishing a presumed SIRVA under the Vaccine Injury Table, there is no need to address Petitioner's "causation-in-fact" allegation.